

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

May 21, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Raye, Associate Justice; Morrison, Associate Justice; and Rios, Bailiff. Calendar Called.

C032521 CONSTRUCTION INDUSTRY FORCE, etc., et al. v. CITY OF SACRAMENTO et al. and FCI CONSTRUCTORS

Cause called. Steven F. Brockhage argued for appellants. Samuel L. Jackson, Office of the City Attorney, argued for respondents. David Paul Harris, Department of Transportation, appeared only. Sean Brew, argued for real party in interest. Cause submitted.

At 10:20 a.m., the court recessed. At 10:23 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Morrison.

C036830 AMOROSO/PACIFIC MECHANICAL, etc., et al. v. CITY OF ROSEVILLE et al. and KIEWIT PACIFIC COMPANY

Cause called. Roger M. Hughes, argued for appellants. Howard G. Curtis appeared only. Eric J. Phillips, appeared only. David W. Post argued for respondents. Michael London argued for real party in interest. Cause submitted.

At 10:56 a.m., the court recessed. At 11:03 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Davis and Associate Justice Morrison.

C034871 OLLENDICK v. OLLENDICK et al.

Cause called. Robert J. Kahn argued for appellants. Robert Bruce Coffin argued for respondent. Cause submitted.

At 11:25 a.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Morrison and Associate Justice Hull.

C035815 FISHER v. FISHER

Cause called. Rodney J. Key argued for appellant. Thomas J. McGlynn argued for respondent. Cause submitted.

At 2:34 p.m., the court recessed. At 2:36 p.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Morrison and Associate Justice Hull.

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The Minutes

May 22, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Blease, Acting Presiding Justice; Sims, Associate Justice; Callahan, Associate Justice; and Conrad, Bailiff. Calendar Called.

C035688 CRADDOCK et al. v. K MART CORPORATION

Cause called. Nancy K. Delaney argued for appellant. John P. Kelley argued for respondents. Cause submitted.

C035616 ZAXIS WIRELESS COMMUNICATIONS, INC. v. MOTOR SOUND CORPORATION et al.

Cause called. Eva G. Abrams argued for appellants. Stephanie J. Finelli argued for respondent. Cause submitted.

At 10:20 a.m., the court recessed. At 10:23 a.m., the court reconvened with Acting Presiding Justice Sims, Associate Justice Raye and Associate Justice Hull.

C032908 SCHMIDT et al. v. LATIN et al.

Cause called. Charles V. Tulley argued for appellants. Gerry Preciado argued for respondents. Cause submitted.

At 10:53 a.m., the court recessed. At 10:56 a.m., the court reconvened with Presiding Justice Scotland, Associate Justice Sims and Associate Justice Kolkey.

C029082 In re SACORE PARTNERSHIP CASES, CJJP No. 2081

Cause called. John C. Ferry argued for appellant and submitted additional citations. David L. Bryant appeared only. J. Michael Cochrane appeared only. John A. Whitesides argued for respondents. Cause submitted.

At 11:40 a.m., the court recessed. At 11:41 a.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Morrison and Associate Justice Kolkey.

C034575 MATHEWS v. KIRKWOOD ASSOCIATES, INC. et al.

Cause called. Guy D. Loranger argued for appellant. Timothy M. Smith argued for respondent. Case submitted.

At 12:18 p.m., the court recessed. At 2:00 p.m., the court reconvened with Acting Presiding Justice Blease, Associate Justice Sims and Associate Justice Hull.

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May 22, 2001, continued

- C035322 THE PEOPLE v. JOHNSON (Not for Publication)**
For the foregoing reasons, we modify the sentence to strike the enhancements imposed on counts 3 and 4 pursuant to section 12022.5, subdivision (a) (1), and reduce the enhancements imposed on counts 3 through 8 pursuant to section 186.22, subdivision (b) (1), leaving a total term of imprisonment of 58 years. The trial court is directed to prepare an amended abstract of judgment reflecting this modification and forward it to the Department of Corrections. In all other respects, the judgment is affirmed.
BLEASE, Acting P.J.
We concur: Sims, J.
 Hull, J.
- C035607 THE PEOPLE v. SWANSON (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Nicholson, J.
 Morrison, J.
- C036049 THE PEOPLE v. MEDINA (Certified for Partial Publication)**
The judgment revoking defendant's probation is affirmed. The sentence is vacated and the matter remanded to the trial court with directions to exercise its discretion whether to reinstate probation. The \$600 restitution fine and suspended parole revocation fine are stricken.
(CERTIFIED FOR PARTIAL PUBLICATION.)
HULL, J.
We concur: Sims, Acting P.J.
 Nicholson, J.
- C036729 THE PEOPLE v. ZEPPI (Not for Publication)**
The judgment is affirmed.
DAVIS, J.
We concur: Sims, Acting P.J.
 Hull, J.
- C036937 THE PEOPLE v. HESS (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We concur: Raye, J.
 Morrison, J.

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The Minutes

May 22, 2001, continued

C037337 THE PEOPLE v. SCOTT (Not for Publication)

The judgment is affirmed.

DAVIS, J.

We concur: Sims, Acting P.J.

Hull, J.

C032991 COUNTY OF SAN JOAQUIN v. MAYORGA et al. (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Morrison, Acting P.J.

Callahan, J.

C036477 HUSTON et al. v. SWARTZ (Not for Publication)

The judgment is affirmed. Plaintiffs shall recover costs on appeal.

RAYE, J.

We concur: Scotland, P.J.

Nicholson, J.

May 23, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Morrison, Associate Justice; Hull, Associate Justice; and Conrad, Bailiff. Calendar Called.

C028402 PROFESSIONAL ENGINEERS, etc., et al. v. STATE PERSONNEL BOARD et al.

Cause called. Dennis F. Moss argued for appellants. Vincent J. Scally, Jr., Deputy Attorney General, argued for respondent. Linda Diane Buzzini, Department of Personnel Administration, appeared only.

At 10:05 a.m., the court recessed. At 10:08 a.m., the court reconvened with Presiding Justice Scotland, Associate Justice Nicholson and Associate Justice Morrison.

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May 23, 2001, continued

C035949 THE PEOPLE v. AMES

Cause called. Laurence Jeffrey Lichter argued for appellant. David Andrew Eldridge, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:19 a.m., the court recessed. At 10:23 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Morrison.

C033479 THE PEOPLE v. GOLSTEN

Cause called. Kenny N. Giffard argued for appellant. Rachelle Newcomb, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:55 a.m., the court recessed. At 10:58 a.m., the court reconvened with Acting Presiding Justice Nicholson, Associate Justice Callahan and Associate Justice Hull.

C028505 THE PEOPLE v. REDMOND

Cause called. David McNeil Morse, court appointed counsel, argued for appellant and submitted additional citations. Anthony L. Dicce, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:34 a.m., the court recessed. At 11:35 a.m., the court reconvened with Acting Presiding Justice Raye, Associate Justice Hull and Associate Justice Kolkey.

C034887 ALAMEDA NEWSPAPERS, INC. v. STOCKTON NEWSPAPERS, INC.

Cause called. John B. Rudquist argued for appellant. Raymond A. Cardozo argued for respondent. Cause submitted.

At 12:08 p.m., the court recessed. At 2:00 p.m., the court reconvened with Presiding Justice Scotland, Associate Justice Davis and Associate Justice Hull.

C031291 SUSANVILLE RESOURCES, INC. v. LASSEN COMMUNITY COLLEGE DISTRICT

Cause called. Jay-Allen Eisen argued for appellant. J. Scott Smith argued for respondents. Cause submitted.

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May 24, 2001

- C035483 THE PEOPLE v. WILSON (Not for Publication)**
The judgment is modified to strike the \$200 section 1202.4 restitution fine imposed on April 21, 2000. We need not order the trial court to prepare an amended abstract because the abstract correctly reflects only the first \$200 section 1202.4 restitution fine.
 DAVIS, Acting P.J.
We concur: Callahan, J.
 Hull, J.
- C036401 THE PEOPLE v. STICKLER (Not for Publication)**
The judgment is modified to provide that the violation of section 288, subdivision (a) is the principal offense and the violation of section 288, subdivision (b) (1) is the subordinate offense. The judgment is further modified to impose sex offender fines totaling \$500. The trial court is directed to prepare an amended abstract of judgment accordingly and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.
 DAVIS, J.
We concur: Scotland, P.J.
 Callahan, J.
- C036728 THE PEOPLE v. LEON (Not for Publication)**
The judgment is affirmed.
 SCOTLAND, P.J.
We concur: Sims, J.
 Nicholson, J.
- C034115 STIGALL v. MARTIN et al. (Not for Publication)**
The judgment against Stigall is reversed. Stigall is awarded his costs on appeal. Stigall's request for sanctions on appeal is denied.
 DAVIS, Acting P.J.
We concur: Raye, J.
 Callahan, J.
- C036345 In re WILLIAM G., JR.; DEPARTMENT OF HEALTH AND HUMAN
SERVICES v. WILLIAM G. (Certified for Partial Publication)**
The order of the juvenile court is affirmed. (CERTIFIED FOR PARTIAL PUBLICATION.)
 NICHOLSON, J.
We concur: Scotland, P.J.
 Sims, J.

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The Minutes

May 24, 2001, continued

C033134 THE PEOPLE v. SHOUP (Certified for Publication)

THE COURT:

Appellant Michelle Shoup appeals from Sacramento County action Nos. 98M09139 and 96F07655.

It appears that action No. 98M09139 was at all times a prosecution for misdemeanor offenses only, which resulted in misdemeanor convictions by a jury. Action No. 96F07655 was a proceeding to revoke probation in a felony case which was consolidated for hearing with action No. 98M09139...This court is without jurisdiction to adjudicate an appeal in action No. 98M09139;...The appeal from action No. 98M09139 is hereby dismissed.

The appeal from action No. 96F07655 remains properly pending in this court...All briefs of appellant and respondent are hereby stricken...(CERTIFIED FOR PUBLICATION)

FOR THE COURT:

SIMS, Acting P.J.

NICHOLSON, J.

MORRISON, J.

C034462 THE PEOPLE v. FRANZ

BY THE COURT:

Appellant's petition for rehearing is denied.

SIMS, Acting P.J.

C036874 COOK v. GORTER (COOK)

BY THE COURT:

Appellant's petition for rehearing is granted. This court's order of April 26, 2001, dismissing the appeal, is vacated and the appeal is reinstated.

A decision on appellant's motion to consolidate the above case with Cook v. Gorter, C036449, is deferred. Any opposition to the motion to consolidate is to be served and filed on or before June 8, 2001.

In all other respects, the petition is denied.

Appellant's opening brief is to be served and filed on or before June 25, 2001.

SCOTLAND, P.J.

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C036449

COOK v. GORTER (COOK)

BY THE COURT:

Appellant's petition for rehearing is granted. This court's order of April 26, 2001, dismissing the appeal, is vacated and the appeal is reinstated.

A decision on appellant's motion to consolidate the above case with Cook v. Gorter, C036874, is deferred. Any opposition to the motion to consolidate is to be served and filed on or before June 8, 2001.

In all other respects, the petition is denied.

Appellant's opening brief is to be served and filed on or before June 25, 2001.

SCOTLAND, P.J.

C037134

THE PEOPLE v. ALEX PADILLA BAIL BONDS et al.

BY THE COURT:

Respondent's motion to dismiss the appeal is granted. The appeal filed November 30, 2000, is dismissed.

SIMS, Acting P.J.

C037269

BECKMAN et al. v. TURNER et al.

C037743

BECKMAN et al. v. TURNER et al.

BY THE COURT:

The motion of appellants for consolidation of the above cases is granted...The cases will be considered for decision together.

Appellants are directed to file forthwith a request for extension of time for appellants' combined opening brief.

SIMS, Acting P.J.

May 25, 2001

At 9:30 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Raye, Acting Presiding Justice; Callahan, Associate Justice; Kolkey, Associate Justice; and Rios, Bailiff. Calendar Called.

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The Minutes

May 25, 2001, continued

- C033900 TABAREZ v. MARKEL TRANSPORT et al.**
Cause called. G. Martin Velez argued for appellant. Joseph R. Zamora argued for respondents. Cause submitted.
- At 9:56 a.m., the court recessed. At 10:00 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Kolkey.
- C035206 THE PEOPLE v. McCLEARY**
Cause called. Gary A. Talesfore argued for appellant. Wanda Hill Rouzan, Supervising Deputy Attorney General, argued for respondent. Cause submitted.
- At 10:20 a.m., the court recessed. At 10:23 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Callahan.
- C029333 THE PEOPLE v. JONES**
Cause called. Gregory Marshall, court appointed counsel, argued for appellant. Janine R. Busch, Deputy Attorney General, argued for respondent. Cause submitted.
- At 11:06 a.m., the court recessed. At 11:14 a.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Nicholson and Associate Justice Callahan.
- C034440 THE PEOPLE v. CLARK, JR.**
Cause called. Janusz Porembski argued for appellant. Jean Williamson, Supervising Deputy District Attorney, and Alan C. Campbell, Deputy County Counsel, argued for respondent. Cause submitted.
- At 11:35 a.m., the court recessed. At 2:03 p.m., the court reconvened with Acting Presiding Justice Davis, Associate Justice Raye and Associate Justice Callahan.
- C034539 SIERRA SELECT DISTRIBUTORS, INC. v. DISTINCTIVE APPLIANCES, INC.**
Cause called. Stephen C. Gerrish argued for appellant. Tim G. Ceperley argued for respondent. Robert C. Norton appeared only. Cause submitted.
- At 2:25 p.m., the court recessed until 9:30 a.m., Tuesday, May 29, 2001.

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The Minutes

May 25, 2001, continued

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| C032933 | THE PEOPLE v. RATSAVONGSY
The judgment is affirmed.
MORRISON, J.
We concur: Nicholson, Acting P.J.
Callahan, J. | (Not for Publication) |
| C037466 | THE PEOPLE v. HAY
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Nicholson, J.
Morrison, J. | (Not for Publication) |
| C033172 | YOUNG et al. v. RALEY'S, INC.
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
Kolkey, J. | (Certified for Publication) |